

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**ROTHSCHILD BROADCAST  
DISTRIBUTION SYSTEMS, LLC,**

**Plaintiff,**

**v.**

**MAGNOLIA PICTURES, LLC,**

**Defendant.**

**CIVIL ACTION NO. 6:20-cv-800**

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “Rothschild Broadcast Distribution Systems”) files this complaint against Magnolia Pictures, LLC (“Magnolia”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the “221 Patent”) and alleges as follows:

**PARTIES**

1. Plaintiff is a Texas limited liability company with an office at 1801 NE 123 Street, Suite 314, Miami, FL 33181.
2. On information and belief, Defendant is a Delaware limited liability company, with a place of business at 49 W 27th St., New York, NY 10001. On information and belief, Defendant may be served through its registered agent, Capitol Services, Inc., 1675 S. State St., Ste. B, Dover, DE 19901.

**JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because Defendant is deemed to be a resident in this District. Alternatively, acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District at, for example, 1614 W. 5<sup>th</sup> St., Austin, TX 78703.

### **BACKGROUND**

8. On October 7, 2014, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '221 Patent, entitled "System and Method for Storing Broadcast Content in a Cloud-Based Computing Environment" after the USPTO completed a full and fair examination. The '221 Patent is attached as Exhibit A.

9. Rothschild Broadcast Distribution Systems is currently the owner of the '221 Patent.

10. Rothschild Broadcast Distribution Systems possesses all rights of recovery under the '221 Patent, including the exclusive right to recover for past, present and future infringement.

11. The '221 Patent contains thirteen claims including two independent claims (claims 1 and 7) and eleven dependent claims.

**COUNT ONE**  
**(Infringement of United States Patent No. 8,856,221)**

12. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 11, the same as if set forth herein.

13. This cause of action arises under the patent laws of the United States and, in particular under 35 U.S.C. §§ 271, *et seq.*

14. Defendant has knowledge of its infringement of the '221 Patent, at least as of the service of the present complaint.

15. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 7, of the '221 Patent by making, using, importing, selling, and/or offering for media content storage and delivery systems and services covered by one or more claims of the '221 Patent.

16. Accordingly, Defendant has infringed, and continues to infringe, the '221 Patent in violation of 35 U.S.C. § 271.

17. Defendant sells, offers to sell, and/or uses media content storage and delivery systems and services, including, without limitation, the Magnolia Selects streaming platform, and any similar products ("Product"), which infringes at least Claim 7 of the '221 Patent.

18. The Product practices a method of storing (e.g., cloud storage) media content (e.g. and recorded music) and delivering requested media content to a consumer device. Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

## Magnolia Selects

Magnolia Selects is a curated collection of films and television series that spans across all genres, brought to you by Magnolia Pictures. Just \$4.99/Month or SAVE EVEN MORE with an Annual Subscription!

Source: <https://www.magnoliaselects.com/>

MAGNOLIA SELECTS is a curated collection of films and television series that spans across all genres, brought to you by Magnolia Pictures. Whether you're a sophisticated moviegoer looking for exceptional independent film with standout performances, top award winning documentaries, standout comedy, or you're looking to immerse yourself in the greatest collection of adrenaline pumping or laugh-out-loud experiences available, Magnolia Selects represents some of the very best in story telling entertainment from the most renowned visual artists in the world today. It's guaranteed to entertain and inspire!

Source: <https://www.magnoliaselects.com/about>

### (ii) Minimum Requirements

In order to access and use the Site and the Content, including, without limitation, Video Content, you will be required to use Device(s) and other technology meeting certain system, configuration and other requirements, including, without limitation, as set forth in the Minimum System and Configuration Requirements, and you are responsible for ensuring that your Device(s) and other technology meet all such requirements at all times and prior to any purchase or order on or in connection with the Site.

Source: <https://www.magnoliaselects.com/terms>

#### **6. VIDEO CONTENT..**

##### **A. General**

Most of the motion pictures, films and other similar audio/visual Content available on the Site ("Video Content") is provided on a fee basis requiring payment of a fee ("Fee") in order to access and view same (collectively, "Fee-Based Video Content"). Subject to the terms and conditions set forth herein, Magnolia Selects may make available certain Video Content, in Magnolia Selects's sole discretion, (i) on a transactional rental and/or streaming on-demand basis (i.e., pay-per-view streaming), which requires payment of a Fee in order to view a particular unit of Video Content during a specified time period an unlimited number of times (collectively and individually, "RSOD Content"), and (ii) on a subscription rental and/or streaming on-demand basis, which requires payment of a periodic subscription Fee (the "Subscription Fee") in order to access and view an unlimited number of times during a specified period certain Video Content curated by Magnolia Selects (collectively and individually, the "Subscription Content") and made available on a periodic basis by Magnolia Selects (the "Subscription Service"). For purposes of clarity, and the avoidance of doubt, (a) the term "Content" includes "Video Content" and all forms thereof, including, without limitation, "RSOD Content" and "Subscription Content", and (b) "Video Content" includes "RSOD Content" and "Subscription Content".

Source: <https://www.magnoliaselects.com/terms>

##### **B. Subscription Content License and Terms**

Every month, Magnolia Selects will offer a number of units of Video Content as Subscription Content, which subscribers to the Subscription Service will be able to access on an unlimited basis for a period of time determined by Magnolia Selects in its sole discretion, in exchange for payment of a Subscription Fee. Upon successful payment of the applicable Subscription Fee (or registration to the Site as part of a free trial) and subject to the terms and conditions set forth herein, Magnolia Selects will grant you a non-exclusive, non-transferable, non-assignable, non-sublicensable, limited right and license to view and privately display the Subscription Content as transmitted by Magnolia Selects via the Site for your own personal, noncommercial use; provided, however, that, the foregoing right and license to the Subscription Content may be limited in its term and duration determined in its sole discretion by Magnolia Selects (the "Subscription Term"). You understand and agree that you will not be able to access or view any Subscription Content as part of the Subscription Service upon expiration of the Subscription Term, and notice of the expiration of same shall not be provided to you. As part of the Subscription Service, certain (or all) of the Subscription Content may be accessed through (i) streaming-on-demand on an unlimited basis (as long as the User remains a subscriber of the Subscription Service), and/or (ii) a download-to-rent basis, in which you can download the Subscription Content and watch it for twenty-four (24) hours from the start of the initial display and viewing of the applicable Subscription Content so long as such initial display and viewing begins within thirty (30) days from the date of download, unless otherwise specified by Magnolia Selects for such particular Subscription Content; upon expiration of the downloaded content, you may download it again as long as your subscription to the Subscription Service remains active for the duration of the Subscription Term for such content.

Source: <https://www.magnoliaselects.com/terms>



**8. VIDEO CONTENT LICENSE TERMS AND BILLING.**

**A. RSOD Content License and Terms/br>** Upon successful payment of the applicable Fee and subject to the terms and conditions set forth herein, Magnolia Selects will grant you a non-exclusive, non-transferable, non-assignable, non-sublicensable, limited right and license to view and privately display the RSOD Content as transmitted by Magnolia Selects via the Site for your own personal, noncommercial use; provided, however, that the foregoing right and license to the RSOD Content is limited in its term and duration to twenty-four (24) hours from the start of the initial display and viewing of the applicable RSOD Content so long as such initial display and viewing begins within thirty (30) days from the date of purchase, unless otherwise specified on the applicable webpage on the Site for the particular unit of RSOD Content (the "RSOD Term"). You understand and agree that you will not be able to access or view any RSOD Content upon expiration of the RSOD Term, and notice of the expiration of same shall not be provided to you.

Source: <https://www.magnoliaselects.com/terms>



Source: <https://apps.apple.com/us/app/magnolia-selects/id1437803150>

19. The Product necessarily includes a receiver configured to receive a request message including data indicating requested media content (e.g., the Product must have infrastructure to receive a request to store recorded media content or to stream recorded media content on a smartphone; additionally, the request message must contain data that identifies the content to be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to access the contents of the Product). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

## Magnolia Selects

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Source: <https://www.magnoliaselects.com/>

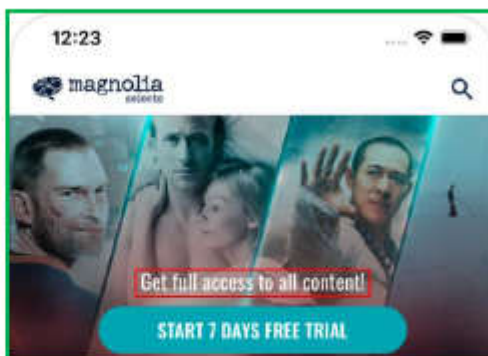
MAGNOLIA SELECTS is a curated collection of films and television series that spans across all genres, brought to you by Magnolia Pictures. Whether you're a sophisticated moviegoer looking for exceptional independent film with standout performances, top award winning documentaries, standout comedy, or you're looking to immerse yourself in the greatest collection of adrenaline pumping or laugh-out-loud experiences available, Magnolia Selects represents some of the very best in story telling entertainment from the most renowned visual artists in the world today. It's guaranteed to entertain and inspire!

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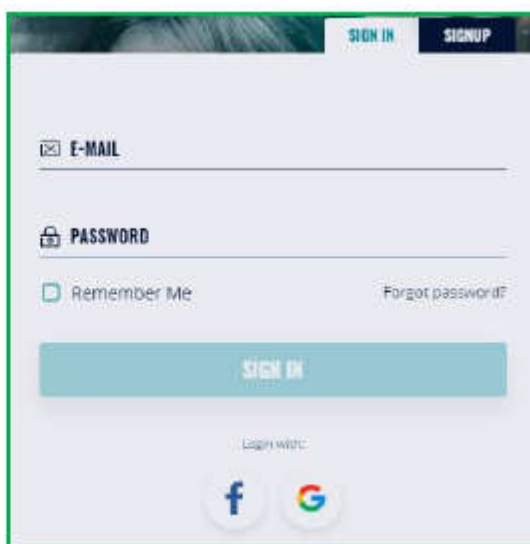
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In order to access and use the Site and the Content, including, without limitation, Video Content, you will be required to use Device(s) and other technology meeting certain system, configuration and other requirements, including, without limitation, as set forth in the Minimum System and Configuration Requirements, and you are responsible for ensuring that your Device(s) and other technology meet all such requirements at all times and prior to any purchase or order on or in connection with the Site.

Source: <https://www.magnoliaselects.com/terms>



Source: <https://apps.apple.com/us/app/magnolia-selects/id1437803150>



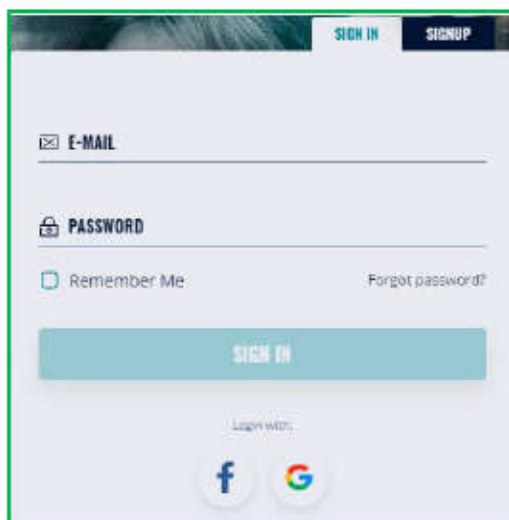
Source: <https://www.magnoliaselects.com/login>

20. The at least one server necessarily determines whether the consumer device identifier corresponds to the registered consumer device (e.g., a user must be a registered user to access the Product's services). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

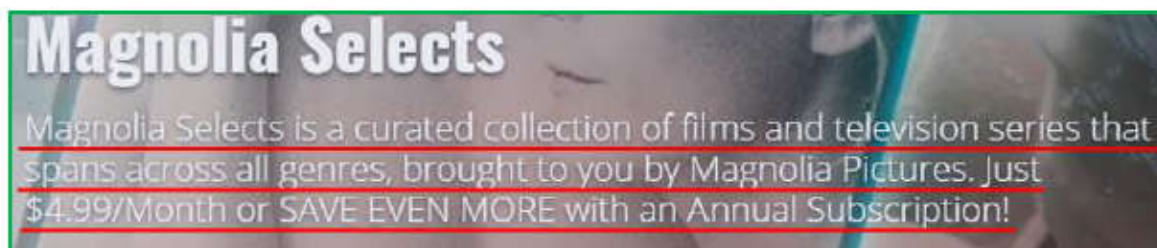
21. The Product provides for both media downloads and/or storage, and media streaming. After a successful login, the Product necessarily determines whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g., streaming of



media content). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

A screenshot of a web login page for Magnolia Selects. At the top right, there are two buttons: "SIGN IN" in white text on a dark background and "SIGNUP" in white text on a dark background. Below these, there are two input fields: the first is labeled "E-MAIL" with an envelope icon, and the second is labeled "PASSWORD" with a lock icon. Below the password field, there is a checkbox labeled "Remember Me" and a link that says "Forgot password?". A large, light blue "SIGN IN" button is centered below the input fields. At the bottom, there is a "Login with:" label followed by two circular icons: the Facebook "f" logo and the Google "G" logo.

Source: <https://www.magnoliaselects.com/login>



Source: <https://www.magnoliaselects.com/>

**B. Subscription Content License and Terms**

Every month, Magnolia Selects will offer a number of units of Video Content as Subscription Content, which subscribers to the Subscription Service will be able to access on an unlimited basis for a period of time determined by Magnolia Selects in its sole discretion, in exchange for payment of a Subscription Fee. Upon successful payment of the applicable Subscription Fee (or registration to the Site as part of a free trial) and subject to the terms and conditions set forth herein, Magnolia Selects will grant you a non-exclusive, non-transferable, non-assignable, non-sublicensable, limited right and license to view and privately display the Subscription Content as transmitted by Magnolia Selects via the Site for your own personal, noncommercial use; provided, however, that, the foregoing right and license to the Subscription Content may be limited in its term and duration determined in its sole discretion by Magnolia Selects (the "Subscription Term"). You understand and agree that you will not be able to access or view any Subscription Content as part of the Subscription Service upon expiration of the Subscription Term, and notice of the expiration of same shall not be provided to you. As part of the Subscription Service, certain (or all) of the Subscription Content may be accessed through (i) streaming-on-demand, on an unlimited basis (as long as the User remains a subscriber of the Subscription Service), and/or (ii) a download-to-rent basis, in which you can download the Subscription Content and watch it for twenty-four (24) hours from the start of the initial display and viewing of the applicable Subscription Content so long as such initial display and viewing begins within thirty (30) days from the date of download, unless otherwise specified by Magnolia Selects for such particular Subscription Content; upon expiration of the downloaded content, you may download it again as long as your subscription to the Subscription Service remains active for the duration of the Subscription Term for such content.

Source: <https://www.magnoliaselects.com/terms>

**8. VIDEO CONTENT LICENSE TERMS AND BILLING.**

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Source: <https://www.magnoliaselects.com/terms>

22. The Product verifies that media content identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage. The Product must verify that the media content (e.g. specific recording) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the product must verify a user's ability to store video is limited to a certain amount of memory usage based upon their subscription; thus media content may not be available for storage if a user is already above their



memory limit or if the user has not subscribed to any service). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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# Magnolia Selects

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## 6. VIDEO CONTENT..

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Source: <https://apps.apple.com/us/app/magnolia-selects/id1437803150>

23. If a customer requests content (e.g., live streaming of media content), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The server will initiate delivery of the requested media content to the consumer device (e.g., stream media content feed to a smartphone or tablet etc.) if the request message is a content request message (e.g., request for live streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

24. The media data time data that indicates a length of time to store the requested media content (e.g. a user is allowed to store media content for limited amount of time as based upon

their subscription level). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

**B. Subscription Content License and Terms**

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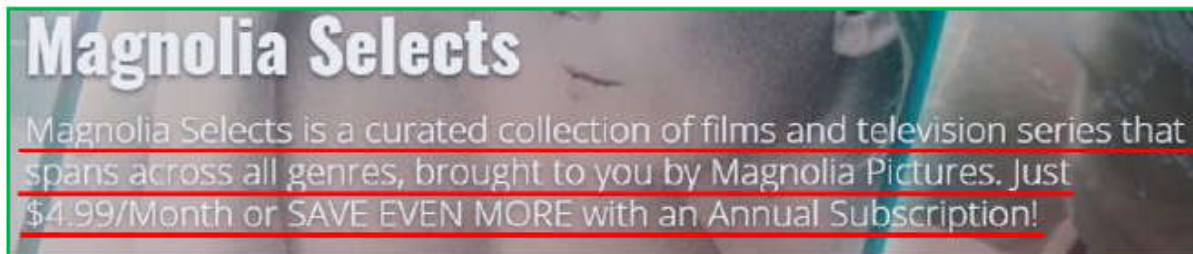
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Source: <https://www.magnoliaselects.com/terms>





Source: <https://www.magnoliaselects.com/>

**In-App Purchase information:**

Subscribe to the Magnolia Selects channel for \$4.99/month or \$49.99/12 months.  
Get started today with a 7-Day Free Trial!

Following the 7-Day free trial period, your iTunes account will be charged \$4.99/month or \$49.99/12 months, as a recurring transaction (unless you cancel during the free trial).

Payment will automatically renew unless you cancel your account or turn off auto-renew at least 24 hours prior to the end of the current subscription month. You can manage your subscription, cancel any time or turn off auto-renewal by accessing your iTunes account. Any unused portion of the Free Trial will be forfeited if a subscription is purchased prior to 7-Day term.

Due to licensing restrictions, content availability may vary by location and will change from time to time.

Source: <https://apps.apple.com/us/app/magnolia-selects/id1437803150>

25. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g. the product must verify that a particular requested data is stored in the cloud). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

26. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., subscription level etc.). Certain aspects of these elements are illustrated in the screenshots provided in connection with other allegations herein.

27. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

28. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

29. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

30. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

31. By engaging in the conduct described herein, Defendant has injured Plaintiff and is liable for infringement of the '221 Patent, pursuant to 35 U.S.C. § 271.

32. Defendant has committed these acts of literal infringement, or infringement under the doctrine of equivalents of the '221 Patent, without license or authorization.

33. As a result of Defendant's infringement of the '221 Patent, injured Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

34. Plaintiff is in compliance with 35 U.S.C. § 287.

35. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement of the '221 Patent up until the date that Defendant ceases its infringing activities.

#### **DEMAND FOR JURY TRIAL**

36. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff running royalty from the time judgment going forward);
- (c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: August 31, 2020

Respectfully Submitted,

/s/Jay Johnson

**JAY JOHNSON**

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